

**PATENT****REMARKS**

Claims 1-37 are currently pending in this application. In the current Office action claims 1, 10-17, 26-31 and 37 were rejected and claims 2-9, 18-25 and 32-36 were objected to as being dependent upon a rejected base claim. The Examiner indicated however that claims 2-9, 18-25 and 32-36 would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. Reconsideration is respectfully requested in light of the following remarks.

The Examiner rejected claims 1, 10-12, 14-17, 26-31 and 37 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,861,013 to Peck et al. Applicant respectfully traverses this rejection.

Applicant's claimed invention as recited in claims 1, 17 and 31 is directed toward a method and corresponding apparatus for automatically verifying capture. For example independent claim 1 recites a method comprised in part by identifying a polarity of an amplitude of the post-stimulation cardiac signal, confirming capture if the amplitude has a predetermined polarity and confirming loss of capture if the amplitude has a different polarity than the predetermined polarity. (Underlining added for emphasis only). Applicant respectfully submits that Peck et al. do not disclose or suggest the recited claim elements.

Rather, Peck et al. disclose that the polarity of the positive or negative change in voltage in respect of time (or dv/dt) of the waveform incident on the lead electrodes during a short period of time immediately following the paced event can be used to discriminate between an evoked response and a post-pace polarization. (Peck et al., col. 6, lines 28-34). For example, the capture detection circuit of Peck et al. detects changes in the polarity of DIFFAMP circuit 58, where the term "polarity" refers here to the sign of the derivative (dv/dt) of the output signal provided by DIFFAMP circuit 58, and attributes changes in the polarity to an evoked response signal. (Peck et al., col. 15, lines 24-32).

Thus the system of Peck et al. verifies capture in accordance with changes in the sign of the derivative of the sensed voltage with respect to time. (Underlining added for emphasis only). Peck et al. do not however disclose or suggest identifying the polarity of the amplitude of the post-stimulation cardiac signal and confirming capture if the

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amplitude has a predetermined polarity and loss of capture if the amplitude has a different polarity than the predetermined polarity as recited in Applicant's claimed invention. Applicant therefore respectfully submits that independent claims 1, 17 and 31 are novel and unobvious over Peck et al. and are allowable. Applicant further submits that claims 2-16, claims 18-30 and claims 32-37 that depend from claims 1, 17 and 31 respectively are allowable as are claims 1, 17 and 31 and for additional limitations recited therein.


Similarly, the Examiner rejected claim 13 under 35 U.S.C. 103(a) as being unpatentable over Peck et al. Applicant respectfully submits that claim 13 which depends from claim 1 is allowable over Peck et al. as is claim 1 and for additional limitations recited therein.

In light of the above remarks, it is respectfully submitted that the application is in condition for allowance, and an early notice of allowance is requested.

Respectfully submitted,

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